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10/788,674	02/27/2004	Archelle Georgiou	UHGS:132US	3594

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EXAMINER

SQUIRES, ELIZA A

ART UNIT	PAPER NUMBER
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3626

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/788,674	Applicant(s) GEORGIU ET AL.	
	Examiner Eliza Squires	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment dated 3/05/2009 has been entered. Claims 1-12 have been cancelled, claims 13-32 have been added and are currently pending in the application.

Response to Arguments

2. Applicant's arguments filed 3/05/2009 have been fully considered but they are not persuasive.

3. The objections to the claims have been withdrawn in light of Applicant's cancellation of the claims.

4. The rejections under 35 USC 101 have been withdrawn in light of cancellation of pending claims. The newly added claims 13-32 are directed towards an article of manufacture, i.e. a computer readable medium, as addressed in Applicant's arguments under item D. which correct previous deficiencies under 35 USC 101 in the cancelled claims.

5. The rejections under 35 USC 112 are withdrawn in light of Applicant's cancellation of the claims.

6. Applicant addresses the applicability of *Sendi* to the limitation of determining a savings based upon economic modeling methodologies in the discussion of the rejection under 35 USC 102 in item E. of the remarks. While the previously examined claims have been canceled, the newly added claims discussed in the Remarks have similar limitations.

7. As discussed on page 1119 of *Sendi* table 4 presents a cost-effectiveness analysis concluding that "in the analysis from the societal perspective, the policy of providing unrestricted access to HAART is cost saving in all scenarios with the exception of the

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pessimistic scenario.” It is then shown on table 4 that both the base and the optimistic case results in societal savings while the pessimistic case results in a cost as displayed in the table.

Sendi therefore discloses the limitation.

8. Examiner notes that the claim does not require a numerical display of the result nor does that claim require that “a savings” is a monetary figure. Applicant does not provide a special definition for the term “savings”. Examiner defines “save” as “to make unnecessary an expenditure or effort” (wordnet.princeton.edu/perl/webwn) meaning a savings could be years saved, or as *Sendi* uses it “years gained”, or, an example from *Bost* figure 11, “gained work days” also fits the definition of a savings determined.

9. Applicant asserts that various limitations are not shown in *Bost* or *Dexter* as discussed in the rejections under 35 USC 103. The first limitation discussed is “determining a savings arising from a prospective review for non-covered health services” as not being taught by *Bost*. However, *Bost* does teach displaying a savings related to an accredited vs. non-accredited plan see paragraphs [0003]-[0004] where the accredited plans “may offer more health care services”. The system of *Bost* then teaches calculating a savings in absentee days and low productivity days and corresponding monetary savings as taught in paragraphs [0161], [0164], [0005]-[0006], and figures 11 and 8. *Bost* therefore does teach this limitation.

10. The second discussed limitation is “determining a savings arising from decreased absenteeism” which is clearly taught by *Bost* paragraph [0006]. Where the savings is the “monetary valuation to the firm of the reduction in absenteeism...”

11. The third limitation “determining a savings arising from health-related reminder programs”, is taught by the combination of *Dexter* and *Bost*. *Bost* discloses that “businesses may

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employ the present invention to compare different health care plans or classes of plans...

specifically, a particular plan or class of plans may provide improved monitoring, treatment and control of various medical conditions, and the present invention quantifies the economic benefits to employers from the improved health care for employees” (*Bost* paragraph [0005]). However *Bost* does not explicitly teach that improved monitoring is a health related reminder program.

Dexter teaches that an improved monitoring system is a health-related reminder system and such a program increase preventative care usage in turn preventative care results in cost savings. One of ordinary skill in the art would have been able to use the program of *Bost* to take into account this variable, thus the combination of the references yields determining a savings arising from health-related reminder programs.

Claim Rejections - 35 USC § 103

12. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

13. The references cited are the same as cited in the prior office action where applicable application/patent numbers or full titles can be found. A list of references cited was sent with the prior office action and is applicable to the references cited herein.

14. Multiple claims recite elements directed towards contents of a report. These report contents are not functionally related to the operation of a method or apparatus therefore are merely non-functional descriptive material and bear no patentable weight. See MPEP 2106.01. Art rejections are presented out of courtesy, however, Applicant should be aware of this deficiency as these or similar claims may be rejected in future actions under 102 or 103 in view of the non-functional descriptive elements.

15. **Claims 13-22 and 24-25** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Sendi* in view of *Bost*.

16. **As to claim 13**, *Sendi* discloses a modeling savings associated with health care services using efficacy data (page 119, left column paragraph 2 and 3), measured results (page 117, right column paragraph 3), economic modeling methodologies (page 1120 figures A and B), and published data (page 1117, right column paragraph 3).

However *Sendi* does not explicitly disclose a computer readable medium comprising instructions for modeling. *Bost* discloses a computer readable medium comprising instructions for modeling (paragraph [0009]).

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It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the health service cost and savings modeling of *Sendi* with the computer readable medium of *Bost* so that computations can be performed quickly and dynamically on a computer.

17. **As to claim 14**, *Sendi* discloses a method for modeling savings associated with health care services, comprising:

determining a savings based upon efficacy data from published research (page 119, left column paragraph 2 and 3);

determining a savings based upon measured results, the measured results comprising one or more of the following savings components: productivity/revenue (page 118, left column paragraph 3 and right column paragraphs 1-3 and tables 2 and 3);

determining a savings based upon economic modeling methodologies, the economic modeling methodologies comprising savings assumptions (table 4); and

determining a savings based upon published data, the published data comprising one or more of the following components: published cost and savings estimates (page 1118, left column paragraph 3 and right column paragraphs 1-3; page 1116, paragraph 3).

However *Sendi* does not explicitly disclose a computer readable medium comprising instructions for modeling. *Bost* discloses a computer readable medium comprising instructions for modeling (paragraph [0009]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the health service cost and savings modeling of *Sendi* with the computer readable medium of *Bost* so that computations can be performed quickly and dynamically on a computer.

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18. **As to claim 15**, see the discussion of claim 14, additionally, *Bost* discloses the computer readable medium further comprising instructions for receiving an input from one or more data sources, the input comprising data for determining a savings (*Bost* paragraphs [0006] and [0009]).

19. **As to claim 16**, see the discussion of claims 14 and 15, additionally, *Bost* discloses the computer readable medium further comprising instructions to generate a summary report, the summary report comprising a summary of the input from the one or more data sources (*Bost* figure 11).

20. **As to claim 17**, see the discussion of claim 14, additionally, *Bost* discloses the computer readable medium further comprising calculating a return on investment (ROI) using one or more of the determined savings (*Bost* abstract and paragraph [0189]).

21. **As to claim 18**, see the discussion of claim 14, additionally, *Sendi* discloses the computer readable medium the efficacy data comprising data concerning one or more of the following conditions: HIV/AIDS (*Sendi* page 1115).

22. **As to claim 19**, see the discussion of claim 14, additionally, *Sendi* discloses the computer readable medium the savings assumptions comprising at least one of clinical assumptions and conservative assumptions (*Sendi* page 1117 left column paragraph 3).

23. **As to claim 20**, see the discussion of claim 14, additionally, *Bost* discloses the computer readable medium further comprising an instruction to generate a cost report, the cost report comprising a cost estimate (*Bost* [0006]).

24. **As to claim 21**, see the discussion of claim 14, additionally, *Bost* discloses the computer readable medium further comprising instructions to generate a savings report, the savings report

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comprising a representation of one or more of the determined savings (*Bost* [0006] and figure 11).

25. **As to claim 22**, see the discussion of claims 14 and 21, additionally, *Bost* discloses the computer readable medium wherein the savings report further comprises a graphical representation of a Return On Investment (ROI) statistic calculated in response to one or more of the determined savings (*Bost* figure 11, abstract, [0006], [0189], and [0194]).

26. **As to claim 24**, see the discussion of claims 14 and 21, additionally, *Bost* discloses the computer readable medium wherein the savings report further comprises a representation of savings associated with a productivity and revenue program (*Bost* abstract and paragraph [0060]).

27. **As to claim 25**, see the discussion of claim 14, additionally, *Bost* discloses the computer readable medium wherein the instructions are embedded within a computer spreadsheet (*Bost* [0009]).

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28. **Claim 23** is rejected under 35 U.S.C. 103(a) as being unpatentable over *Sendi* in view of *Bost* in further view of *Dexter*.

29. **As to claim 23**, see the discussion of claims 14 and 21, additionally, *Bost* discloses that “businesses may employ the present invention to compare different health care plans or classes of plans... specifically, a particular plan or class of plans may provide improved monitoring, treatment and control of various medical conditions, and the present invention quantifies the economic benefits to employers from the improved health care for employees” (*Bost* paragraph [0005]). However *Bost* does not explicitly teach that improved monitoring is a health related reminder program. *Dexter* teaches that an improved monitoring system is a health-related reminder system and such a program increase preventative care usage in turn preventative care results in cost savings. One of ordinary skill in the art would have been able to use the program of *Bost* to take into account this variable, thus the combination of the references yields determining a savings arising from health-related reminder programs and recognized the benefit of the combination of taking into account additional variables that allow a better decision to be made of one health plan over another.

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30. **Claims 26-32** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Sendi* in view of *Bost* in further view of *Dexter*.

31. **As to claim 26**, *Bost* discloses a computer readable medium storing a computer program containing instructions thereon for instructing a computer to perform operations for modeling savings associated with health care services, the operations comprising:

determining a savings arising from a closure of a gap in health care (*Bost* paragraph [0191], wherein an appointment availability demonstrates a gap in health care);

determining a savings arising from a prospective review for non-covered health services (*Bost* paragraphs [0161] and [0164] and figure 8); and

determining a savings arising from decreased absenteeism (*Bost* paragraph [0161]).

However *Bost* does not explicitly disclose a health-related reminder program. *Dexter* discloses determining a savings arising from health-related reminder programs (*Dexter* page 965, left column).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Bost* with *Dexter* because as *Dexter* discloses, preventative care leads to decreased medical costs (*Dexter* page 965, left column 5th paragraph) and the use of a reminder program increases the utilization of these measures (*Dexter* page 965, left column 4th paragraph).

32. **As to claim 27**, see the discussion of claim 26, additionally, *Bost* discloses the computer readable medium further comprising instructions for receiving an input from one or more data sources, the input comprising data for determining a savings (*Bost* paragraphs [0006] and [0009]).

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33. **As to claim 28**, see the discussion of claims 26 and 27, additionally, *Bost* discloses the computer readable medium further comprising instructions to generate a summary report, the summary report comprising a summary of the input from the one or more data sources (*Bost* figure 11).

34. **As to claim 29**, see the discussion of claims 26, additionally, *Bost* discloses the computer readable medium further comprising instructions to generate a savings report, the savings report comprising a representation of one or more of the determined savings (*Bost* [0006] and figure 11).

35. **As to claim 30**, see the discussion of claims 26 and 29, additionally, *Bost* discloses the computer readable medium wherein the savings report further comprises a graphical representation of a Return On Investment (ROI) statistic calculated in response to one or more of the determined savings (*Bost* figure 11, abstract, [0006], [0189], and [0194]).

36. **As to claim 31**, see the discussion of claims 26 and 29, additionally, *Bost* discloses that “businesses may employ the present invention to compare different health care plans or classes of plans... specifically, a particular plan or class of plans may provide improved monitoring, treatment and control of various medical conditions, and the present invention quantifies the economic benefits to employers from the improved health care for employees” (*Bost* paragraph [0005]). However *Bost* does not explicitly teach that improved monitoring is a health related reminder program. *Dexter* teaches that an improved monitoring system is a health-related reminder system and such a program increase preventative care usage in turn preventative care results in cost savings. One of ordinary skill in the art would have been able to use the program of *Bost* to take into account this variable, thus the combination of the references yields

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determining a savings arising from health-related reminder programs and recognized the benefit of the combination of taking into account additional variables that allow a better decision to be made of one health plan over another.

37. **As to claim 32**, see the discussion of claims 26 and 29, additionally, *Bost* discloses the computer readable medium wherein the savings report further comprises a representation of savings associated with a productivity and revenue program (*Bost* abstract and paragraph [0060]).

Conclusion

38. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eliza Squires whose telephone number is (571)270-7052. The examiner can normally be reached on Monday through Friday 8 am - 4 pm Eastern Standard Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eliza Squires/
Examiner, Art Unit 3626
5/11/09

/C. Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626